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2 An act relating to public food service  
3 establishments; providing a short title;  
4 providing legislative findings and intent;  
5 creating s. 509.233, F.S.; creating a pilot  
6 program that authorizes local governments to  
7 adopt an ordinance establishing a local  
8 exemption to certain provisions of general law  
9 and agency rules relating to public food  
10 service establishments in order to permit  
11 patrons' dogs at certain designated outdoor  
12 portions of such establishments; providing for  
13 implementation and enforcement procedures;  
14 providing for state assistance; providing for  
15 future review and repeal; providing an  
16 effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. This act may be cited as "The Dixie Cup  
21 Clary Local Control Act."

22 Section 2. Findings and intent.--The Legislature finds  
23 and declares:

24 (1) Chapter 509, Florida Statutes, requires the  
25 Division of Hotels and Restaurants of the Department of  
26 Business and Professional Regulation to carry out all laws and  
27 rules relating to the inspection and regulation of public food  
28 service establishments for the purpose of safeguarding the  
29 public health, safety, and welfare.

30 (2) Section 509.013(5), Florida Statutes, defines  
31 "public food service establishment" as "any building, vehicle,

1 place, or structure, or any room or division in a building,  
2 vehicle, place, or structure, where food is prepared, served,  
3 or sold for immediate consumption on or in the vicinity of the  
4 premises; called for or taken out by customers; or prepared  
5 prior to being delivered to another location for consumption."

6 (3) Section 509.032, Florida Statutes, requires the  
7 Division of Hotels and Restaurants of the Department of  
8 Business and Professional Regulation to adopt and enforce such  
9 rules as are necessary to ensure the protection of the public  
10 from food-borne illness in public food service establishments.

11 (4) Section 509.032, Florida Statutes, further  
12 requires the Division of Hotels and Restaurants of the  
13 Department of Business and Professional Regulation to adopt  
14 such rules in order to "provide the standards and requirements  
15 for obtaining, storing, preparing, processing, serving, or  
16 displaying food in public food service establishments,  
17 approving public food service establishment facility plans,  
18 conducting necessary public food service establishment  
19 inspections for compliance with sanitation regulations,  
20 cooperating and coordinating with the Department of Health in  
21 epidemiological investigations, and initiating enforcement  
22 actions, and for other such responsibilities deemed necessary  
23 by the division."

24 (5) Pursuant to the grant of rulemaking authority  
25 cited in s. 509.032, Florida Statutes, the Division of Hotels  
26 and Restaurants of the Department of Business and Professional  
27 Regulation has adopted by rule sanitation and safety  
28 requirements of public food service establishments, including  
29 requirements relating to physical facilities, which adopts by  
30 reference certain portions of the Food and Drug Administration  
31 Food Code, as amended from time to time, as developed by the

1 Food and Drug Administration of the United States Department  
2 of Health and Human Services.

3 (6) The Food and Drug Administration Food Code  
4 generally prohibits live animals from public food service  
5 establishments.

6 (7) Section 509.032(7), Florida Statutes, expressly  
7 preempts to the state regulation of public lodging  
8 establishments and public food service establishments for  
9 compliance with the sanitation standards adopted by the  
10 Division of Hotels and Restaurants of the Department of  
11 Business and Professional Regulation.

12 (8) Section 509.032(7), Florida Statutes, expressly  
13 limits the general home rule powers of local governments as it  
14 relates to the regulation of public food service  
15 establishments.

16 (9) The purpose of this act is to establish a 3-year  
17 pilot program to allow participating local governments to  
18 enact an ordinance establishing procedures by which public  
19 food service establishments could become exempt from certain  
20 portions of the Food and Drug Administration Food Code and  
21 allow patrons' dogs within certain designated outdoor portions  
22 of their respective establishments.

23 Section 3. Section 509.233, Florida Statutes, is  
24 created to read:

25 509.233 Public food service establishment  
26 requirements; local exemption for dogs in designated outdoor  
27 portions; pilot program.--

28 (1) INTENT.--It is the intent of the Legislature by  
29 this section to establish a 3-year pilot program for local  
30 governments to allow patrons' dogs within certain designated  
31 outdoor portions of public food service establishments.

1           (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.  
2 509.032(7), the governing body of a local government  
3 participating in the pilot program is authorized to establish,  
4 by ordinance, a local exemption procedure to certain  
5 provisions of the Food and Drug Administration Food Code, as  
6 currently adopted by the division, in order to allow patrons'  
7 dogs within certain designated outdoor portions of public food  
8 service establishments.

9           (3) LOCAL DISCRETION; CODIFICATION.--

10           (a) The adoption of the local exemption procedure  
11 shall be at the sole discretion of the governing body of a  
12 participating local government. Nothing in this section shall  
13 be construed to require or compel a local governing body to  
14 adopt an ordinance pursuant to this section.

15           (b) Any ordinance adopted pursuant to this section  
16 shall provide for codification within the land development  
17 code of a participating local government.

18           (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

19           (a) Any local exemption procedure adopted pursuant to  
20 this section shall only provide a variance to those portions  
21 of the currently adopted Food and Drug Administration Food  
22 Code in order to allow patrons' dogs within certain designated  
23 outdoor portions of public food service establishments.

24           (b) In order to protect the health, safety, and  
25 general welfare of the public, the local exemption procedure  
26 shall require participating public food service establishments  
27 to apply for and receive a permit from the governing body of  
28 the local government before allowing patrons' dogs on their  
29 premises. The local government shall require from the  
30 applicant such information as the local government deems  
31 reasonably necessary to enforce the provisions of this

1 section, but shall require, at a minimum, the following  
2 information:

3 1. The name, location, and mailing address of the  
4 public food service establishment.

5 2. The name, mailing address, and telephone contact  
6 information of the permit applicant.

7 3. A diagram and description of the outdoor area to be  
8 designated as available to patrons' dogs, including dimensions  
9 of the designated area; a depiction of the number and  
10 placement of tables, chairs, and restaurant equipment, if any;  
11 the entryways and exits to the designated outdoor area; the  
12 boundaries of the designated area and of other areas of  
13 outdoor dining not available for patrons' dogs; any fences or  
14 other barriers; surrounding property lines and public  
15 rights-of-way, including sidewalks and common pathways; and  
16 such other information reasonably required by the permitting  
17 authority. The diagram or plan shall be accurate and to scale  
18 but need not be prepared by a licensed design professional.

19 4. A description of the days of the week and hours of  
20 operation that patrons' dogs will be permitted in the  
21 designated outdoor area.

22 (c) In order to protect the health, safety, and  
23 general welfare of the public, the local exemption ordinance  
24 shall include such regulations and limitations as deemed  
25 necessary by the participating local government and shall  
26 include, but not be limited to, the following requirements:

27 1. All public food service establishment employees  
28 shall wash their hands promptly after touching, petting, or  
29 otherwise handling dogs. Employees shall be prohibited from  
30 touching, petting, or otherwise handling dogs while serving  
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1 food or beverages or handling tableware or before entering  
2 other parts of the public food service establishment.

3 2. Patrons in a designated outdoor area shall be  
4 advised that they should wash their hands before eating.  
5 Waterless hand sanitizer shall be provided at all tables in  
6 the designated outdoor area.

7 3. Employees and patrons shall be instructed that they  
8 shall not allow dogs to come into contact with serving dishes,  
9 utensils, tableware, linens, paper products, or any other  
10 items involved in food service operations.

11 4. Patrons shall keep their dogs on a leash at all  
12 times and shall keep their dogs under reasonable control.

13 5. Dogs shall not be allowed on chairs, tables, or  
14 other furnishings.

15 6. All table and chair surfaces shall be cleaned and  
16 sanitized with an approved product between seating of patrons.  
17 Spilled food and drink shall be removed from the floor or  
18 ground between seating of patrons.

19 7. Accidents involving dog waste shall be cleaned  
20 immediately and the area sanitized with an approved product. A  
21 kit with the appropriate materials for this purpose shall be  
22 kept near the designated outdoor area.

23 8. A sign or signs reminding employees of the  
24 applicable rules shall be posted on premises in a manner and  
25 place as determined by the local permitting authority.

26 9. A sign or signs reminding patrons of the applicable  
27 rules shall be posted on premises in a manner and place as  
28 determined by the local permitting authority.

29 10. A sign or signs shall be posted in a manner and  
30 place as determined by the local permitting authority that

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1 places the public on notice that the designated outdoor area  
2 is available for the use of patrons and patrons' dogs.

3 11. Dogs shall not be permitted to travel through  
4 indoor or nondesignated outdoor portions of the public food  
5 service establishment, and ingress and egress to the  
6 designated outdoor portions of the public food establishment  
7 must not require entrance into or passage through any indoor  
8 area of the food establishment.

9 (d) A permit issued pursuant to this section shall not  
10 be transferred to a subsequent owner upon the sale of a public  
11 food service establishment but shall expire automatically upon  
12 the sale of the establishment. The subsequent owner shall be  
13 required to reapply for a permit pursuant to this section if  
14 the subsequent owner wishes to continue to accommodate  
15 patrons' dogs.

16 (5) POWERS; ENFORCEMENT.--Participating local  
17 governments shall have such powers as are reasonably necessary  
18 to regulate and enforce the provisions of this section.

19 (6) STATE AND LOCAL COOPERATION.--The division shall  
20 provide reasonable assistance to participating local  
21 governments in the development of enforcement procedures and  
22 regulations, and participating local governments shall monitor  
23 permitholders for compliance in cooperation with the division.  
24 At a minimum, participating local governments shall establish  
25 a procedure to accept, document, and respond to complaints and  
26 to timely report to the division all such complaints and the  
27 participating local governments' enforcement responses to such  
28 complaints. A participating local government shall provide the  
29 division with a copy of all approved applications and permits  
30 issued, and the participating local government shall require  
31 that all applications, permits, and other related materials

1 contain the appropriate division-issued license number for  
2 each public food service establishment.

3 (7) FUTURE REVIEW AND REPEAL.--This section shall  
4 expire July 1, 2009, unless reviewed and saved from repeal  
5 through reenactment by the Legislature.

6 Section 4. This act shall take effect July 1, 2006.  
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